

**BEFORE  
THE OHIO POWER SITING BOARD**

<b>In the Matter of the Application of Kingwood Solar I LLC for a Certificate of Environmental Compatibility and Public Need</b>	) ) ) )	<b>Case No. 21-0117-EL-BGN</b>
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**SUPPLEMENTAL TESTIMONY OF DYLAN STICKNEY**

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**Q1. Please state your name, title and business address.**

**A1.** My name is Dylan Stickney. I am Development Manager for Vesper Energy, 125 E. John Carptenter Freeway, Suite 525, Irving, Texas 75062. The Applicant, Kingwood Solar I LLC, is a wholly owned affiliate of Vesper Energy Finance LLC. I am the Project Manager for the Kingwood Solar Project (the “Project”).

**Q2. On whose behalf are you offering testimony?**

**A2.** I am testifying on behalf of the Applicant in support of the Joint Stipulation and Recommendation as to Certificate Conditions (“Joint Stipulation”) filed on March 4, 2022.

**Q3. Did you previously provide direct testimony on behalf of the Applicant?**

**A3.** Yes, I provided direct testimony in this proceeding. My direct testimony was filed on February 23, 2022. This supplemental testimony is in addition to my direct testimony.

**Q4. Are you familiar with the Joint Stipulation?**

**A4.** Yes. I was involved in the discussions over the last few months that resulted in the Joint Stipulation. I have reviewed and am familiar with the Joint Stipulation.

**Q5. Can you provide a brief overview of the Joint Stipulation?**

**A5.** Yes. The Ohio Farm Bureau and Kingwood Solar have signed the Joint Stipulation, agreeing on conditions that they recommend the Board adopt in the event the Board issues

1 a certificate of environmental compatibility and public need for the Project. The Joint  
2 Stipulation is the product of negotiations between the signatory parties but also  
3 incorporates feedback from and addresses concerns raised by intervenors who participated  
4 in settlement discussions even though they are not signatories to the Joint Stipulation. As  
5 explained further below, the Joint Stipulation presents and recommends conditions for a  
6 certificate of environmental compatibility and public need. Specifically, the Joint  
7 Stipulation includes revisions to a number of the conditions proposed in the Staff Report.  
8 It also includes a number of new conditions. These revisions and new conditions provide  
9 enhanced protections, such as prevention of the spread of noxious weeds, expanded Project  
10 setbacks from public roads, enhanced screening obligations, additional coordination with  
11 various stakeholders, and further commitments related to stormwater and field tile  
12 drainage. The Joint Stipulation proposes changes to Conditions 1, 2, 4, 11, 12, 15, 16, 17,  
13 18, 19, 20, 21, 22, 23, 26, 28, 30, 31, 32, 33, 35 and 37 of the October 29, 2021 Staff Report  
14 of Investigation. Conditions 34 and 36 have been deleted. New conditions were also added  
15 through the Joint Stipulation. Those are Conditions 23, 33, 38 and 39 as listed in the Joint  
16 Stipulation. Because new Conditions 23 and 33 were inserted in the Stipulation and  
17 conditions deleted, the numbering of conditions in the Joint Stipulation is different than the  
18 numbering of the conditions in the Staff Report.

19 **Q6. Can you describe the Joint Stipulation's changes to Condition 1 of the Staff Report?**

20 **A6.** Yes. The proposed change to Condition 1 is a ministerial one to reflect that some  
21 of the conditions as recommended in the Staff Report were modified in the Joint  
22 Stipulation:

- 23 (1) The Applicant shall install the facility, utilize equipment and construction practices,  
24 and implement mitigation measures as described in the application and as modified

1 and/or clarified in supplemental filings, replies to data requests, and  
2 recommendations in the Staff Report of Investigation, as modified by this  
3 Stipulation.  
4

5 **Q7. Can you describe the Joint Stipulation's changes to Condition 2 of the Staff Report?**

6 **A7.** The Joint Stipulation includes revisions to Condition 2, which would require the  
7 Applicant to provide notice of the preconstruction conference with Staff to the Greene  
8 County Board of County Commissioners, the Cedarville Township Board of Trustees, the  
9 Xenia Township Board of Trustees, the Miami Township Board of Trustees, the Greene  
10 County Engineer, In Progress, LLC and the Greene Soil & Water Conservation District, so  
11 that representatives of any of those interested parties will be aware of that meeting and can  
12 attend if they wish.

13 (2) The Applicant shall conduct a preconstruction conference prior to the  
14 commencement of any construction activities. Staff, the Applicant, and  
15 representatives of the primary contractor and all subcontractors for the project shall  
16 attend the preconstruction conference. The conference shall include a presentation  
17 of the measures to be taken by the Applicant and contractors to ensure compliance  
18 with all conditions of the certificate, and discussion of the procedures for on-site  
19 investigations by Staff during construction. Prior to the conference, the Applicant  
20 shall provide a proposed conference agenda for Staff review and shall file a copy  
21 of the agenda on the case docket. Prior to the conference, the Applicant shall also  
22 provide notice of the meeting to the Greene County Board of County  
23 Commissioners, the Cedarville Township Board of Trustees, the Xenia Township  
24 Board of Trustees, the Miami Township Board of Trustees, the Greene County  
25 Engineer, In Progress, LLC and the Greene Soil & Water Conservation District  
26 should representatives wish to attend the conference for informational purposes.  
27 The Applicant may conduct separate preconstruction conferences for each stage of  
28 construction.  
29

30 **Q8. Can you describe the Joint Stipulation's changes to Condition 4 of the Staff Report?**

31 **A8.** Yes. As revised, Condition 4 includes a commitment that non-participating  
32 residences shall be at least 250 feet from the Project's fence line and 500 feet from the  
33 inverter stations. This 250-foot setback is a substantial increase over the 25-foot setback

commitment in the application. The 500-foot setback from inverters is designed to further reduce any noticeable noise impact of the Project.

- (4) Separate preconstruction conferences may be held for the different phases of civil construction and equipment installation. At least 30 days prior to each preconstruction conference, the Applicant shall submit to Staff, for review and acceptance, one set of detailed engineering drawings of the final project design for that phase of construction and mapping in the form of PDF, which the Applicant shall also file on the docket of this case, and geographically referenced data (such as shapefiles or KMZ files) based on final engineering drawings to confirm that the final design is in conformance with the certificate. The final design shall incorporate a minimum setback from the project's fence line of at least 250 feet from non-participating residences as of the application filing date, and a minimum setback from the project's inverter stations of at least 500 feet from non-participating residences as of the application filing date. Mapping shall include the limits of disturbance, permanent and temporary infrastructure locations, areas of vegetation removal and vegetative restoration as applicable, and specifically denote any adjustments made from the siting detailed in the application. The detailed engineering drawings of the final project design for each phase of construction shall account for geological features and include the identity of the registered professional engineer(s), structural engineer(s), or engineering firm(s), licensed to practice engineering in the state of Ohio who reviewed and approved the designs. All applicable geotechnical study results shall be included in the submission of the final project design to Staff.

**Q9. Can you describe the Joint Stipulation's changes to Condition 11 of the Staff Report?**

**A9.** We made a minor revision to Condition 11 in order to clarify that the Applicant shall provide copies of permits and authorizations to OPSB Staff no less than seven days prior to the applicable construction activities. Similar conditions have been approved by the Board in other proceedings.

- (11) Prior to the commencement of construction activities in areas that require permits or authorizations by federal or state laws and regulations, the Applicant shall obtain and comply with such permits or authorizations. The Applicant shall provide copies of permits and authorizations, including all supporting documentation, to Staff within no less than seven days of issuance or receipt by the Applicant prior to the applicable construction activities and shall file such permits or authorizations on the public docket. The Applicant shall provide a schedule of construction activities and acquisition of corresponding permits for each activity at the preconstruction conference(s).

1 **Q10. Can you describe the Joint Stipulation's changes to Condition 12 of the Staff Report?**

2 **A10.** Condition 12 has been revised to add a reference to R.C. 4906.13(B) to eliminate  
3 any confusion at the local level with regard to the OPSB's jurisdiction over solar facilities  
4 over 50 MW.

5 (12) Subject to the application of R.C. 4906.13(B), the certificate authority  
6 provided in this case shall not exempt the facility from any other applicable and  
7 lawful local, state, or federal rules or regulations nor be used to affect the  
8 exercise of discretion of any other local, state, or federal permitting or licensing  
9 authority with regard to areas subject to their supervision or control.

10 **Q11. Can you describe the Joint Stipulation's changes to Condition 15 of the Staff Report?**

11 **A11.** Condition 15 was revised to improve wildlife passage throughout the Project Area  
12 while still maintaining compliance with applicable codes and NERC requirements. The  
13 revisions also provide Staff the opportunity to review fence design plans submitted by the  
14 Applicant for confirmation that those plans conform to the revised condition.

15 (15) Prior to commencement of construction, the Applicant shall submit to Staff its  
16 design for approval a solar panel the perimeter fence type that is for confirmation  
17 that the design complies with this condition. Project perimeter fencing shall be  
18 designed to be both small-wildlife permeable and aesthetically fitting for a rural  
19 location, taking into account applicable codes and NERC requirements. To the  
20 extent modifications can be made to a code compliant fence, the Applicant shall  
21 install a fence that: has the lowest height possible; has frequent openings in the  
22 bottom rows in the fence not more than 500 feet apart and that must be at least nine  
23 inches wide and seven inches high to allow the passage of mammalian predators  
24 and other wildlife species. This condition shall not apply to substation fencing.

25 **Q12. Can you describe the Joint Stipulation's changes to Condition 16 of the Staff Report?**

26 **A12.** Yes. Condition 16 now incorporates a revised screening plan that shows additional  
27 screening. This revised screening plan was developed based on direct feedback from a  
28 number of different stakeholders. The screening plan is attached to my testimony as Figure  
29 1. It was designed to provide additional detail about the form and type of screening,

1 includes additional areas of screening and increases the beneficial impact of the screening,  
2 and also explicitly incorporates the Project's screening commitment as a condition of the  
3 certificate. In total, the new screening plan commits over 47,000 linear feet of landscape  
4 vegetative screening for the Project. This includes an increase of over 4,000 linear feet  
5 over the screening as proposed in the Application, which includes extra screening along  
6 Clifton Road and OH-72 above and beyond the screening for that area proposed in the  
7 Application.

8 (16) Prior to commencement of any construction, the Applicant shall prepare a landscape  
9 and lighting plan in consultation with a landscape architect licensed by the Ohio  
10 Landscape Architects Board that addresses the aesthetic and lighting impacts of the  
11 facility with an emphasis on any locations where an adjacent non-participating  
12 parcel contains a residence with a direct line of sight to the project area at any time  
13 of the year. The plan shall also address potential aesthetic impacts to nearby  
14 communities, the travelling public, and recreationalists by incorporating  
15 appropriate landscaping measures such as shrub plantings or enhanced pollinator  
16 plantings. The plan shall include measures such as fencing, vegetative screening, or  
17 good neighbor agreements. Unless alternative mitigation is agreed upon with the  
18 owner of any such adjacent, non-participating parcel containing a residence with a  
19 direct line of sight to the fence of the facility, the plan shall provide for the planting  
20 of vegetative screening designed by the landscape architect to enhance the view  
21 from the residence and be in harmony with the existing vegetation and viewshed  
22 in the area. Subject to any project area reductions, vegetative screening shall at  
23 minimum consist of screening in the locations shown on the attached screening  
24 plan using the identified levels of screening from the Landscaping Plan attached to  
25 the Applicant's application in this proceeding. The Applicant shall maintain  
26 vegetative screening for the life of the facility and the Applicant shall substitute  
27 and/or replace any failed plantings so that, after five years, at least 90 percent of the  
28 vegetation has survived. The Applicant shall maintain all fencing along the  
29 perimeter of the project in good repair for the term of the project and shall  
30 promptly repair any damage as needed. Lights shall be motion-activated and  
31 designed to narrowly focus light inward toward the facility, such as being  
32 downward-facing and/or fitted with side shields. The Applicant shall provide  
33 the plan to Staff and file it on the public docket for review and  
34 confirmation that it complies with this condition.

**Q13. Can you describe the Joint Stipulation's changes to Condition 17 of the Staff Report?**

**A13.** Condition 17 has been revised to clarify that the Applicant will contact the appropriate authority in the event threatened or endangered species are encountered during construction. The last sentence in Condition 17 has been deleted. I believe that sentence regarding annual reporting of wildlife mortality, injury or entrapment is overly broad as it captures all wildlife species, would impose an unnecessary administrative burden and cost on the Project and does not relate to mortality or injury related to facility operations. Post construction monitoring of wildlife mortality or injury at solar facilities is also unusual and not necessary.

- (17) The Applicant shall contact Staff, the ODNR, and/or the USFWS as applicable within 24 hours if state and/or federally listed threatened or endangered species are encountered within the construction limits of disturbance during site construction activities. Construction activities that could adversely impact the identified plants or animals shall be immediately halted until an appropriate course of action has been agreed upon by the Applicant, Staff and the appropriate agencies. ~~The Applicant shall also annually report all wildlife mortality, injury, or entrapment that is discovered at the facility to OPSB Staff and ODNR DOW.~~

**Q14. Can you describe the Joint Stipulation's changes to Condition 18 of the Staff Report?**

**A14.** Condition 18 has been revised to account for the ability to coordinate with the ODNR and/or the USFWS on alternative courses of action. The OPSB has approved such coordination with these agencies in prior proceedings for solar projects.

- (18) If the Applicant encounters any new listed plant or animal species or suitable habitat of these species prior to construction, the Applicant shall ~~include the location~~ identify avoidance areas or alternatively explain appropriate mitigation measures for these species to accommodate construction activities. This information will be included in the final engineering drawings and associated mapping, as required in condition 4. The Applicant shall avoid impacts to these species and explain how impacts would be avoided during construction. Coordination with the ODNR and USFWS may also allow for a different course of action.

1 **Q15. Can you describe the Joint Stipulation's changes to Condition 19 of the Staff Report?**

2 **A15.** Yes. The Joint Stipulation includes the changes I previously proposed in my direct  
3 testimony that clarified how the Ohio EPA post-construction stormwater guidance would  
4 be used. The revised condition also directs the Applicant to perform pre- and post-  
5 construction stormwater calculations. These calculations, along with other submittals to  
6 Ohio EPA, must be submitted to the Greene County Department of Building Regulation  
7 and the Greene County Soil & Water Conservation District. Lastly, the revised condition  
8 requires the Applicant to also submit construction drawings of post-construction  
9 stormwater BMPs to the same entities no less than seven days prior to applicable  
10 construction activities.

11 (19) The Applicant shall ~~construct the facility in a manner that incorporates~~ incorporate  
12 post construction stormwater management under OHC00005 (Part III.G.2.e, pp.  
13 19-27) ~~in accordance with~~ applicable and will also incorporate applicable  
14 guidance from the Ohio Environmental Protection Agency's Guidance on Post-  
15 Construction Storm Water Controls for Solar Panel Arrays- (dated October 2019).  
16 Following the completion of final project engineering design, the Applicant shall  
17 perform pre- and post-construction stormwater calculations to determine if post-  
18 construction best management practices are required, based on requirements  
19 contained in Ohio EPA's Construction General Permit. The calculations along with  
20 a copy of any stormwater submittals made to the Ohio EPA shall be submitted to  
21 the Greene County Department of Building Regulation and the Greene County  
22 Soil & Water Conservation District. If post construction storm water best  
23 management practices are required, the Applicant will submit construction drawings  
24 detailing any stormwater control measures to the Greene County Department of  
25 Building Regulation and the Greene County Soil & Water Conservation District, as  
26 applicable, no less than seven days prior to the applicable construction activities.

27 **Q16. Can you describe the Joint Stipulation's changes to Condition 20 of the Staff Report?**

28 **A.16.** Condition 20 was revised to adopt my recommendations set forth in my direct  
29 testimony. Specifically, Condition 20 was revised from the Staff Report to clarify the  
30 selection and role of the environmental specialist.



(20) The Applicant shall have an environmental specialist on site during construction activities that may affect sensitive areas, to be mutually agreed upon by the Applicant and Staff. Sensitive areas which would be impacted during construction shall be identified on a map provided to Staff, and may include, but are not limited to wetlands ~~and~~, streams, and locations of threatened or endangered species habitat. The environmental specialist shall be familiar with water quality protection issues and potential threatened or endangered species of plants and animals that may be encountered during project construction. The environmental specialist mutually agreed upon by Staff and the Applicant shall be authorized to report any issues simultaneously to Staff and the Applicant. To allow time for the Applicant and Staff to respond to any reported issues, the environmental specialist shall have authority to stop construction to assure that construction activities in or near the impacted sensitive area(s) for up to 48 hours if the construction activities are creating unforeseen environmental impacts unforeseen environmental impacts do not progress and recommend procedures to resolve the impact. ~~A map shall be provided to Staff showing sensitive areas which would be impacted during construction with information on when the environmental specialist would be present in the sensitive areas identified on the map.~~

**Q.17. Can you describe the Joint Stipulation's changes to Condition 21 of the Staff Report?**

**A.17.** The Joint Stipulation modifies Condition 21 as recommended in my direct testimony to clarify the purpose of seasonal cutting restrictions with regard to protected bat species.

(21) The Applicant shall adhere to seasonal cutting dates of October 1 through March 31 for the removal of trees three inches or greater in diameter to avoid potential impacts to Indiana bats, northern long-eared bats, little brown bats, and the tricolored bats unless coordination with the Ohio Department of Natural Resources (ODNR) and the U.S. Fish and Wildlife Service (USFWS) allows a different course of action. If coordination with these agencies allows clearing between April 1 and September 30, the Applicant shall docket proof of completed coordination on the case docket prior to clearing trees.

**Q. 18. Can you describe the Joint Stipulation's changes to Condition 22 of the Staff Report?**

**A18.** Condition 22 (numbered as Condition 23 in the Joint Stipulation) contains the changes I previously proposed to Condition 22 in addition to a new requirement to remove noxious weeds (and, if necessary, treat with herbicides) upon notice from a board of township trustees. Moreover, the condition now requires the Applicant to consult with the

Greene County Soil & Water Conservation District regarding seed mixes. The Applicant must also provide the District with the tags for the seed mixes.

(23) The Applicant shall take steps to prevent establishment and/or further propagation of noxious weeds identified in Ohio Adm.Code Chapter 901:5-37 during implementation of any pollinator-friendly plantings, as well as during construction, operation, and decommissioning. This would be achieved through appropriate seed selection, and annual vegetative surveys consistent with the vegetation management plan included in the application. If noxious weeds are found to be present, the Applicant shall remove and treat them with herbicide as necessary, and shall follow all applicable state laws regarding noxious weeds. The Applicant shall also remove and treat with herbicide as necessary any noxious weeds upon notice from a board of township trustees that noxious weeds exist on Project property. Prior to commencement of construction, the Applicant shall consult with the Greene Soil & Water Conservation District regarding seed mixes for the Project and shall provide the tags on such seed mixes to the Greene Soil & Water Conservation District.

**Q19. Can you describe the Joint Stipulation's changes to Condition 23 of the Staff Report?**

**A19.** Yes. We revised Condition 23 (numbered as Condition 24 in the Joint Stipulation) to direct the Applicant to engage in additional communication with local agencies. Specifically, the Applicant will consult with the Greene County Engineer, the ODOT, and other local agencies regarding any temporary road closures, road use maintenance agreements, driveway permits, lane closures, road access restrictions, and traffic control necessary for construction and operation of the proposed facility. Further, the Applicant will document this consultation in the final transportation management plan, which it will file on the docket. The revised condition also includes additional commitments in the transportation management plan, such as including any county required road use maintenance agreements and addressing the methodology for monitoring all local county and township roads used for construction traffic during construction to ensure these roads remain safe for local traffic. Lastly, the revised condition directs the Applicant to promptly

1 repair any damage to local public roads, culverts and bridges to previous or better  
2 condition.

3 (24) The Applicant shall obtain transportation permits prior to the commencement of  
4 construction activities that require them. The Applicant shall coordinate with the  
5 appropriate regulatory authority regarding any temporary road closures, road use  
6 agreements, driveway permits, lane closures, road access restrictions, and traffic  
7 control necessary for construction and operation of the proposed facility.  
8 Coordination shall include, but not be limited to, the Greene County Engineer, the  
9 ODOT, local law enforcement, and health and safety officials. The Applicant shall  
10 detail this coordination as part of a final transportation management plan submitted  
11 to Staff prior to the preconstruction conference for review and confirmation by Staff  
12 that it complies with this condition and then file the plan on the public docket. This  
13 final transportation management plan would include any county required road use  
14 maintenance agreements. The final transportation management plan shall address  
15 the methodology for monitoring all local county and township roads used for  
16 construction traffic during construction to ensure these roads remain safe for local  
17 traffic. Any damaged local public roads, culverts and bridges would be repaired  
18 promptly to their previous or better condition by the Applicant under the guidance  
19 of the appropriate regulatory authority. Any temporary improvements would be  
20 removed unless the appropriate regulatory authority request that they remain in  
21 place.  
22

23 **Q20. Can you describe the Joint Stipulation's changes to Condition 26 of the Staff Report?**

24 **A.20.** Yes. The changes described in my direct testimony to Condition 26 of the Staff  
25 Report (numbered as Condition 27 in the Joint Stipulation) were included in the Joint  
26 Stipulation. The revisions clarify the components of the Project that be subject to the  
27 restriction on placement within Camp Clifton Day Camp's inner management protection  
28 zones. As Mr. Saunders' and Mr. Finley's testimony, drinking water sources in and around  
29 the Project Area will not be impacted by the Project. Therefore, any restriction on the  
30 location of the Project equipment for the purpose of drinking water protection is not  
31 warranted. That being said, the Applicant does not object to restricting the substation  
32 equipment outside the inner management protection zones for Camp Clifton given the  
33 location of the substation equipment being outside the zones. However, given that there is

no risk of water contamination from the placement or operation of solar arrays, panels should be allowed to be located in that zone to avoid restricting more than 100 acres of the Project Area and significantly reducing certain participating landowners' lease income.

(27) At least 30 days prior to the preconstruction conference, the Applicant shall demonstrate that ~~its solar and~~ the substation equipment are outside the inner management protection zone(s) for the Camp Clifton Day Camp source water protection area.

**Q.21. Can you describe the Joint Stipulation's changes to Condition 28 of the Staff Report?**

**A.21.** Condition 28 of the Staff Report (numbered as Condition 29 in the Joint Stipulation) was revised to be consistent with conditions approved in other cases but still provides for written confirmation of all pre-construction activities. The revisions take into account that there may be multiple pre-construction conferences and that the pre-construction compliance submittals may differ for each phase of construction. For example, tree clearing pre-construction submittals may not require compliance with all pre-construction conditions.

(29) At least 30 days prior to the start of construction, the Applicant shall file a copy of the final complaint resolution plan on the public docket. At least seven days prior to the start of construction and at least seven days prior to the start of facility operations, the Applicant shall notify via mail affected property owners and tenants who were provided notice of the public informational meeting and OPSB hearings; local officials who received a copy of the application; residences located within one mile of the certificated boundary; other applicable parties who have requested updates regarding the project; airports, schools, and libraries located within one mile of the certificated boundary; parties to this case; and emergency responders. These notices shall provide information about the project, including contact information and a copy of the project inquiry and complaint resolution plan. These notices shall provide information about the project, including contact information and a copy of the project inquiry and complaint resolution plan. The start of construction notice shall include ~~written confirmation that the Applicant has complied with all preconstruction-related conditions of the certificate, as well as~~ a timeline for construction and restoration activities. The start of facility operations notice shall include ~~written confirmation that the Applicant has complied with all preconstruction-related conditions of the certificate, as well as~~ a timeline for the start of operations. The Applicant shall file

1 a copy of these notices on the public docket, including written confirmation that  
2 the Applicant has complied with all preconstruction-related conditions of the  
3 certificate. During the construction and operation of the facility, the Applicant  
4 shall submit to Staff a complaint summary report by the fifteenth day of April,  
5 July, October, and January of each year for the first five years of operation. The  
6 report shall include a list of all complaints received through the Applicant's  
7 complaint resolution process, a description of the actions taken toward the  
8 resolution of each complaint, and a status update if the complaint has yet to be  
9 resolved. The Applicant shall file a copy of these complaint summaries on the  
10 public docket.

11 **Q.22. Can you describe the Joint Stipulation's changes to Condition 30 of the Staff Report?**

12 **A.22.** Condition 30 of the Staff Report (numbered as Condition 31 in the Joint Stipulation)  
13 includes the revisions I described in my direct testimony to provide more clarity and allow  
14 for modeling across the entire Project area rather than a specific test at one site. This form  
15 of condition has been approved by the Board as recently as February 17, 2022 in Case No.  
16 20-1405-EL-BGN for a project in Union County, Ohio.

17 (31) If the inverters or substation transformer chosen for the project have a higher  
18 sound power output than the models used in the noise model, the Applicant shall  
19 submit, 30 days prior to construction, the results from an updated noise model  
20 for the project using the expected sound power output from the models chosen  
21 for the project, to show that sound levels will not exceed the average daytime  
22 ambient level in dBA for the nearest sound monitoring location for the Project  
23 Noise Evaluation attached to the application as Exhibit K plus five dBA at any  
24 non-participating sensitive receptor and will be submitted at least 30 days prior  
25 to construction. If noise data is not available from the inverter or transformer  
26 manufacturer, an operational noise test may be performed to comply with this  
27 condition. The test must be performed on a sunny day between 10 a.m. and 2  
28 p.m. in the months of May-August, at a distance equal to the minimum distance  
29 from an inverter to a non-participating residence. If the test shows the  
30 operational noise level is greater than project area ambient Leq level plus five  
31 dBA additional noise mitigation will be required. This condition is complied  
32 with if the test shows the operational noise level is equal or less than project  
33 area ambient Leq level plus five dBA. The Applicant shall file a report on the  
34 public docket that shows either 1) for the chosen inverter and substation  
35 transformer that sound levels will not exceed the daytime ambient level plus  
36 five dBA at any non-participating sensitive receptor or 2) results of the  
37 operational noise test showing that sound levels will not exceed the daytime  
38 ambient level plus five dBA at any non-participating sensitive receptor.  
39 nonparticipating sensitive receptor. If transformer manufacturer data is not

1 available, the model will be updated with sound emission data following the  
2 NEMA TR1 standard. If inverter manufacturer data is not available, a similar  
3 inverter model will be used to update the sound propagation model prior to  
4 construction. Once constructed, sound level measurements will be made in  
5 close proximity to the inverter to determine the sound power level of the  
6 installed inverter. If the sound power level of the installed inverter is 2 dBA or  
7 more above the sound power level used in the updated preconstruction model,  
8 then the sound propagation model will be updated to ensure project-wide  
9 compliance with the applicable sound level limit. If the sound power level is  
10 determined to be less than 2 dBA above the sound power level used in the  
11 updated preconstruction model, then the project will be deemed in-compliance.  
12 If the equipment chosen for the project are at the same (or lower) sound power  
13 outlet as the models used in the noise model, no further action is needed for  
14 compliance of this condition.

15 **Q.23. Can you describe the Joint Stipulation’s changes to Condition 31 of the Staff Report?**

16 **A.23.** The revisions to Condition 31 of the Staff Report (numbered as Condition 32 in the  
17 Joint Stipulation) clarify that soil compaction should be avoided and the area of avoidance  
18 (i.e., the facility footprint). Revisions also clarify the phrases “field tile drainage system”  
19 and “drainage systems.” The revisions acknowledge that drain tile can be replaced or  
20 rerouted in addition to being repaired, and also account for tile that travels to or from an  
21 adjacent parcel.

22 (32) The Applicant shall avoid, where possible, or minimize to the extent  
23 practicable, any damage to functioning field tile drainage systems and  
24 compaction to soils within the facility footprint resulting from the construction,  
25 operation, and/or maintenance of the facility in agricultural areas. For the  
26 purposes of the conditions in this Stipulation, “field tile drainage systems” or  
27 “drainage system” includes both mains and laterals within the facility footprint.  
28 Damaged field tile systems shall be promptly repaired or rerouted to at least  
29 original conditions or modern equivalent at the Applicant’s expense to ensure  
30 proper drainage. However, if the affected landowner agrees to not having the  
31 damaged field tile system repaired, they may do so only (i) if the field tile  
32 systems of adjacent landowners remain unaffected by the non-repair, non-  
33 replacement, or non-rerouting of the landowner’s field tile system and (ii) the  
34 damaged field tile does not route directly to or from an adjacent parcel. In  
35 accordance with the Applicant’s complaint resolution plan, the Applicant shall  
36 consult with any landowner that submits a complaint to the Applicant related  
37 to drainage issues on the landowner’s property.

1 **Q24. Can you describe the Joint Stipulation's changes to Condition 32 of the Staff Report?**

2 **A24.** Condition 32 of the Staff Report (numbered as Condition 34 in the Joint Stipulation)  
3 was revised to modify the alternative approaches intended to minimize unwanted drainage  
4 problems as recommended by Staff. Condition 34 of the Joint Stipulation includes the  
5 revisions I noted in my direct testimony to that condition in addition to an additional  
6 requirement that the Applicant to allow an inspector from the Greene Soil & Water  
7 Conservation District to determine, inspect, and, as necessary, require the Applicant's field  
8 tile contractor to repair field tile systems. The requirement in the Staff Report to  
9 compensate adjoining landowners has been removed as I do not believe that is appropriate  
10 permit condition for a certificate. That specific requirement is also ambiguous on many  
11 fronts.

12 (34) The Applicant shall ensure that ~~nearby~~ parcels adjacent to the Project area  
13 are protected from unwanted drainage problems due to construction and operation  
14 of the project. The Applicant shall ensure this by ~~implementing one of the~~  
15 ~~following:~~ 1) conducting a search of the Project as necessary to locate drain tiles  
16 between the Project area properties and adjacent parcels; (2) consulting with  
17 owners of all parcels adjacent to the properties making up the Project as to  
18 locations of drain tiles on those parcels, (3) consulting with the Greene Soil &  
19 Water Conservation District (the "District") and the Greene County Engineer to  
20 determine the location of any tile located in a county maintenance ditch; and (4)  
21 subsequently documenting benchmark conditions of surface and subsurface  
22 drainage systems prior to construction, including the location of laterals, mains,  
23 grassed waterways, and county maintenance/repair ditches. The Applicant will  
24 make efforts to conduct a perimeter dig utilizing a tile search trench and  
25 consult with owners of all parcels adjacent to the property, the county soil  
26 and water conservation district, and the county to request drainage system  
27 information over those parcels. The Applicant shall consult with the county  
28 engineer for tile located in a county maintenance/repair ditch. locate and replace  
29 all ditches. During the time Applicant is conducting any field searches for drain  
30 tile or conducting construction work that could affect field tile drainage systems  
31 within the Project Area and for up to twelve months after completing  
32 construction, the Applicant will allow a District inspector to help  
33 determine, inspect, and, as necessary, require the Applicant's contractor to cause  
34 repairs to be made to necessary project field tile drainage systems agree to  
35 compensate parcels owners affected by damage to functioning field tile drainage

1                   ~~systems and soils resulting from the construction, operation, and/or maintenance~~  
2                   ~~of the facility in agricultural areas for damage to crops or other agricultural~~  
3                   ~~activities that have been damaged.~~  
4

5   **Q25. Can you describe the Joint Stipulation's changes to Condition 33 of the Staff Report?**

6           **A.25.** Condition 33 of the Staff Report (numbered as Condition 35 in the Joint Stipulation)  
7           has been revised to account for the fact that the Applicant may not have land rights after  
8           decommissioning is complete. Language has also been added to provide a trigger for  
9           decommissioning.

10           (35) At least 30 days prior to the preconstruction conference, the Applicant shall  
11           submit an updated decommissioning plan and total decommissioning cost  
12           estimate without regard to salvage value on the public docket that includes: (a)  
13           a provision that the decommissioning financial assurance mechanism include a  
14           performance bond where the company is the principal, the insurance company  
15           is the surety, and the Ohio Power Siting Board is the obligee; (b) a timeline of  
16           up to one year for removal of the equipment after the Project permanently ceases  
17           commercial operation; (c) a provision to monitor the site for at least one  
18           additional year to ensure successful revegetation and rehabilitation subject to  
19           landowner permission to access the site; (d) a provision where the performance  
20           bond is posted prior to the commencement of construction; (e) a provision that  
21           the performance bond is for the total decommissioning cost and excludes  
22           salvage value; (f) a provision to coordinate repair of public roads damaged or  
23           modified during the decommissioning and reclamation process; (g) a provision  
24           that the decommissioning plan be prepared by a professional engineer registered  
25           with the state board of registration for professional engineers and surveyors; (h)  
26           and a provision stating that the bond shall be recalculated every five years by  
27           an engineer retained by the Applicant.

28   **Q.26. Can you describe the Joint Stipulation's changes to Condition 34 in the Staff Report?**

29           **A26.** Yes. Condition 34 has been deleted. The condition is not necessary because the  
30           Applicant has completed the architectural and archaeological surveys for the entire Project  
31           area and received concurrence from the State Historic Preservation Office and no further  
32           coordination is required.



**Q.27. Can you describe the Joint Stipulation's changes to Condition 35 in the Staff Report?**

**A.27.** Condition 35 of the Staff Report (numbered as Condition 36 in the Joint Stipulation) has been revised to include the flexibility to recycle the solar panels.

(35) At the time of solar panel end of life disposal, retired panels that will not be recycled and that are marked for disposal shall be sent to an engineered landfill with various barriers and methods designed to prevent leaching of materials into soils and groundwater.

**Q.28. Can you describe the Joint Stipulation's changes to Condition 36 in the Staff Report?**

**A.28.** The Joint Stipulation deletes Condition 36 because the substance of the condition is included in Condition 15 of the Staff Report and now, the Joint Stipulation.

**Q.29. Can you describe the Joint Stipulation's changes to Condition 37 in the Staff Report?**

**A.29.** Condition 37 in the Staff Report (numbered as Condition 37 in the Joint Stipulation) substantially increase the setbacks throughout the Project, with specific focus on areas that stakeholders have identified. First, the universal Project fence line setback from the public roads edge has been increased from 30 feet to 50 feet. Second, the setback specifically for OH-72 and Clifton Road on the eastern portion of the Project will be a minimum of 300 feet from the public road right-of-way. Third, the setback from the Clifton Road right-of-way in the western portion of the Project will be a minimum of 200 feet to the Project fence line. All of these setbacks are intended to minimize the visual impact of the Project.

(37) Prior to commencement of construction, the Applicant shall submit to Staff for approval a solar panel perimeter fence type that is both small wildlife permeable and aesthetically fitting for a rural location. This condition shall not apply to substation fencing. At least 30 days prior to the preconstruction conference, the Applicant shall demonstrate that it has implemented a setback of at least ~~30~~50 feet from the solar facility fence line to the public roads edge line. ~~Alternatively, the Applicant may demonstrate that its solar fence is outside the clear zone width of the nearest public road; this demonstration should include the roads' design speed, design average daily traffic, applicable slopes, and accident history of right of way.~~ Specific to OH-72 and Clifton Road on the eastern portion of the Project, the Applicant shall implement a setback of 300 feet from the edge of the public road

1                   right-of-way. Specific to Clifton Road on the western portion of the Project, the  
2                   Applicant shall implement a setback of 200 feet from the edge of the public road  
3                   right-of-way.  
4

5   **Q30. Have you driven on OH-72 and Clifton Road in the Project Area?**

6           **A.30.** Yes, I have driven on those roads multiple times as well as on roads throughout the  
7           Project Area.

8   **Q.31. Will the increased setbacks proposed in Condition 37 of the Joint Stipulation**  
9           **minimize the Project's view when driving along either OH-72 or Clifton Road?**

10          **A31.** Yes. In combination with the enhanced Landscaping Plan in Condition 16 and  
11          attached to the Joint Stipulation, these increased setbacks will substantially reduce the  
12          visibility of the Project for anyone driving along OH-72 and Clifton Road. To help  
13          visualize the combined impact of these increased setbacks and the enhanced screening the  
14          Applicant is committing to in Condition 16, I directed VHB, Inc. to prepare some visual  
15          simulations of the view from areas that various local stakeholders have identified as being  
16          of local importance: the views from OH-72 driving from the Historic Clifton Mill towards  
17          Cedarville and the east-facing view from Clifton Road near the entrance to 4-H Camp  
18          Clifton, which are shown in Figures 2 and 3 attached to my testimony, respectively. I  
19          believe these simulations are a good representation of how the increased setbacks and  
20          enhanced screening of the Project will substantially reduce the view of the Project from  
21          those roads. Especially considering that anyone driving on either of these roads will be  
22          travelling at high speeds.

1 **Q32. Are there any conditions included in the Joint Stipulation, which were not included**  
2 **in the Staff Report?**

3 **A32.** Yes. Conditions 23, 33, 38, and 39 in the Joint Stipulation are new conditions,  
4 which were not included in the Staff Report.

5 Condition 23 would limit in-water work in perennial streams between April 15 and June  
6 30 in order to protect indigenous aquatic species and their habitat. The condition does give  
7 the Applicant the option to coordinate with ODNR to do work during that time period, but  
8 the Applicant would need to file proof of that coordination on the docket prior to  
9 conducting such work.

10 (23) The Applicant shall conduct no in-water work in perennial streams from April 15  
11 through June 30 to reduce potential impacts to indigenous aquatic species and their  
12 habitat, unless coordination efforts with the ODNR Ohio Department of Natural  
13 Resources allows a different course of action. If coordination with ODNR allows  
14 in-water work in perennial streams between April 15 and June 30, the Applicant  
15 shall file proof of such coordination on the docket prior to conducting such work.  
16

17 Condition 33 identifies the time periods within which the the Applicant must repair of any  
18 damaged main drain tiles. Specifically, the damaged system would need to be repaired  
19 and/or rerouted within 10 days if the damage occurs during construction of the Project, or  
20 within 45 days if the damage occurs during operation and/or maintenance of the Project.  
21 Noah Waterhouse will provide additional testimony on this condition.

22 (33) If a main drain tile is impacted due to the construction of the facility, the damaged  
23 field tile drainage system shall be promptly repaired and/or rerouted no later than  
24 10 days after such damage is discovered, pending weather and contractor  
25 availability, and be returned to at least original condition or their modern  
26 equivalent. If a main drain tile is found to be impacted during the operation, and/or  
27 maintenance of the facility, the damaged field tile drainage systems shall be  
28 promptly repaired and/or rerouted no later than 45 days after such damage is  
29 discovered, pending weather and contractor availability, and be returned to at least  
30 original conditions or their modern equivalent at the Applicant's expense. Any tile  
31 installation or repairs shall be performed in accordance with the applicable  
32 provision of Standard Practice for Subsurface Installation of Corrugated

1                   Polyethylene Pipe for Agricultural Drainage of Water Table Control, ASTM F499-  
2                   02 (2008), to the extent practicable.  
3

4                   Condition 38 would require the Applicant to develop an emergency response plan and  
5                   provide that plan to Staff. The plan would include a provision to provide annual training  
6                   to the Xenia Township, Cedarville Township, Miami Township and Greene County  
7                   emergency response services in addition to providing those agencies with emergency  
8                   contacts for the Project during construction and operation. It would also require the  
9                   Applicant to coordinate with those local governments during the development of the plan.

10                  (38)   The Applicant shall provide an emergency response plan to Staff prior to  
11                  construction of the Project that includes a provision to provide annual training to  
12                  the Xenia Township, Cedarville Township, Miami Township and Greene County  
13                  emergency response services in addition to providing those agencies with  
14                  emergency contacts for the Project during construction and operation. The  
15                  Applicant shall develop the plan in coordination with the emergency response  
16                  service agencies for the townships. Such annual training shall include training on  
17                  addressing personnel injury incidents and fires. The annual training shall  
18                  commence prior to the start of operation and continue until the Project is  
19                  decommissioned. Emergency contact information shall be posted at the primary  
20                  entrance to the Project.  
21

22                  Last, Condition 39 would require to the Applicant to provide a summary report to Staff  
23                  (and file a copy on the case docket) about any Project damage due to high wind events.  
24                  That report would also require the Applicant to describe a plan for repairing the damage  
25                  and a timeline for the repairs. The final portion of that condition would require the  
26                  Applicant to decommission any portion of the Project that is damaged by high winds.

27                  (39)   The Applicant shall provide a summary report to Staff within 60 days of the  
28                  occurrence of any material damage to the Facility resulting from high wind events  
29                  and shall file a copy of the report on the case docket. The report shall describe the  
30                  Applicant's plan for repairing the damage and the timeline for the repairs. In the  
31                  event any portion of the Facility is rendered inoperable by the damage and the  
32                  Applicant elects to not repair the damage, that portion of the Facility shall be  
33                  decommissioned following the Applicant's decommissioning plan.  
34

1 **Q33. Are you familiar with the standard of review that the Board has applied in prior**  
2 **Board proceedings to evaluate the reasonableness of a stipulation?**

3 **A33.** Yes. I am aware that the Board applies a three-pronged test to consider the  
4 reasonableness of a stipulation, which includes:

5 1. Is the settlement a product of serious bargaining among capable, knowledgeable  
6 parties?

7 2. Does the settlement, as a package, benefit ratepayers and the public interest?

8 3. Does the settlement package violate any important regulatory principal or practice?

9 My understanding is that traditionally, the three-pronged test is applied to stipulations that  
10 recommend the approval of the Project. The Joint Stipulation in this proceeding only  
11 presents recommended conditions to the Board to adopt in the event it decides to issue a  
12 certificate of environmental compatibility and public need to the Applicant.

13 **Q34. If the Board applies the three prong test to the Joint Stipulation, do you believe the**  
14 **Joint Stipulation satisfies the three prong test?**

15 **A.34.** Yes.

16 **Q.35. Do you believe the Joint Stipulation is a product of serious bargaining among capable,**  
17 **knowledgeable parties?**

18 **A35.** Yes. The Applicant met with a number of the intervenors to discuss various aspects  
19 of the Project, including the Project layout, screening, and other items of concern over the  
20 last few months. From those meetings, the Applicant prepared a revised layout with  
21 increased setbacks and enhanced screening that were directly responsive to concerns raised  
22 by other parties. The Applicant also included a revised set of conditions representing  
23 commitments made by the Applicant beyond the proposed conditions in the Staff Report.

1 All parties were also invited to an all-party meeting that was held on February 17, 2022 to  
2 discuss stipulation conditions. I was personally involved in these meetings. Additional  
3 conversations were held that resulted in the conditions being proposed in the Joint  
4 Stipulation. All of the parties involved in the proceeding were represented by counsel and  
5 had the opportunity to participate in settlement discussions in this proceeding. I would also  
6 note that the changes made to the conditions in the Joint Stipulation incorporate input from  
7 many different parties participating in settlement discussions, including parties that did not  
8 sign the Joint Stipulation. While only OFBF has signed the Joint Stipulation, I believe the  
9 Joint Stipulation it is the product of serious negotiations and represents a significant  
10 investment of time and effort.

11 **Q36. Does the Joint Stipulation, as a package, benefit ratepayers and the public interest?**

12 **A36.** Yes. I think the Joint Stipulation will benefit ratepayers and the public interest. It  
13 is worth repeating that this Joint Stipulation does not recommend approval of the Project.  
14 Instead, the Joint Stipulation recommends the conditions that the Board should adopt if it  
15 elects to grant a certificate of environmental compatibility and public need for the  
16 Kingwood Solar project. The revised and added conditions in the Joint Stipulation include  
17 a number of additional requirements that the Applicant must comply with if the conditions  
18 are approved by the Board as part of a certificate issuance. This includes documenting  
19 commitments the Applicant has made to coordinate with the local government on safety  
20 issues, such as the coordination regarding the traffic management and the emergency  
21 response training with the local communities. It includes further protections for local  
22 wildlife and ecology through restrictions on work in perennial streams and the inclusion of  
23 wildlife-friendly fencing. It includes substantial concessions by the Applicant to reduce the

1 Project footprint by increasing the setbacks, with significant setbacks in the areas identified  
2 by local stakeholders as being particularly important. It includes substantial commitments  
3 to prevent drainage issues that would impact adjacent homeowners or farmers such as  
4 allowing access for Greene Soil & Water Conservation District inspectors to be present  
5 during certain construction activities. Finally, it includes increased landscape screening to  
6 further minimize visual impacts than originally proposed in the Application. Overall, if the  
7 Board elects to grant a certificate, the conditions proposed by the Joint Stipulation will  
8 further minimize the impacts of the Project as well as support any certificate issuance by  
9 the Board.

10 **Q37. Does the Joint Stipulation violate any important regulatory principle or practice?**

11 **A37.** No.

12 **Q38. Does the Joint Stipulation provide additional support for granting a certificate for the**  
13 **Project?**

14 **A38.** In my opinion, yes. As I explained in my direct testimony, the Application and  
15 Applicant's responses to Staff's data requests satisfies the statutory criteria for a certificate  
16 of environmental compatibility and public need. The Joint Stipulation provides further  
17 support for the issuance of a certificate, such as protections of aquatic habitat (Condition  
18 22), accounting for wildlife passage (Condition 15), inverter setbacks (Condition 4), and  
19 measures to impact drainage on adjacent agricultural land in Conditions 32 through 34.  
20 The Joint Stipulation also bolsters the support for R.C. 4906.10(A)(6), by including  
21 substantial changes to the Project's layout and design that seek to reduce and/or eliminate  
22 specific concerns raised about the Project. For example, the combination of increased  
23 setbacks and enhanced screening will reduce the Project's impact on the viewshed of

1 tourists driving along Clifton Road or OH-72. Similarly, the Applicant's commitment to  
2 provide annual training to the local emergency response services shows the Applicant's  
3 commitment to safety. The Joint Stipulation also provides for annual training for first  
4 responders. The negotiations, time and effort involved with developing the Joint  
5 Stipulation show that the Applicant continues to try to work with local stakeholders to  
6 develop a Project that coexists within the local community while providing Ohio with a  
7 source of renewable energy. I believe the information provided to the Board by the  
8 Applicant including the testimony and exhibits submitted in this proceeding and the  
9 conditions in the Joint Stipulation warrant the issuance of a certificate. I respectfully  
10 request that the Board issue a certificate of environmental compatibility and public need  
11 for the Kingwood Solar Project and adopt the conditions in the Joint Stipulation.

12 **Q39. Does this conclude your supplemental testimony?**

13 **A39.** Yes.



## **CERTIFICATE OF SERVICE**

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served on the persons below via electronic mail on this 4th day of March 2022:

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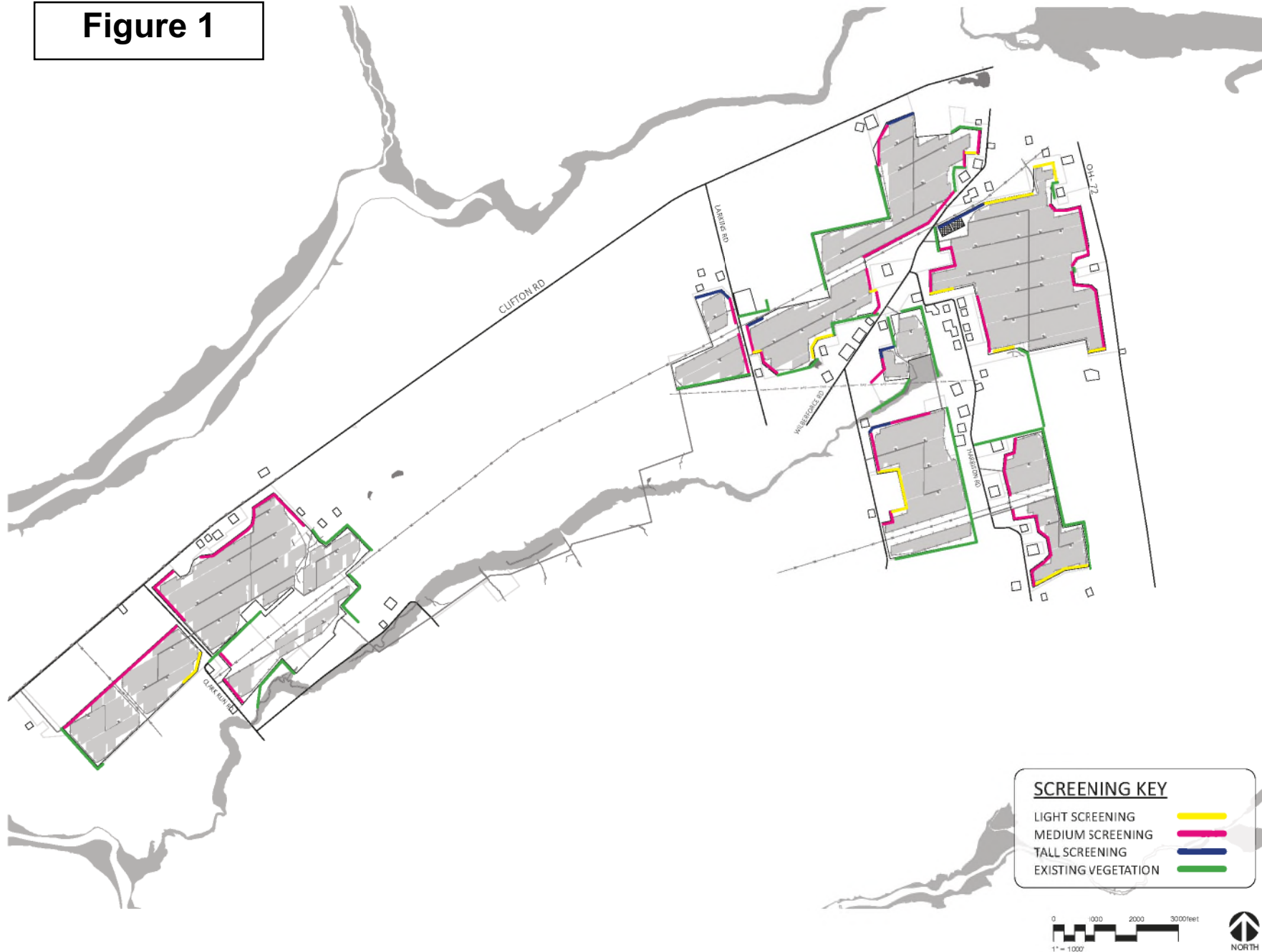
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**Figure 1**



**KINGWOOD SOLAR**  
GREENE COUNTY, OHIO

[illegible]

# Figure 2

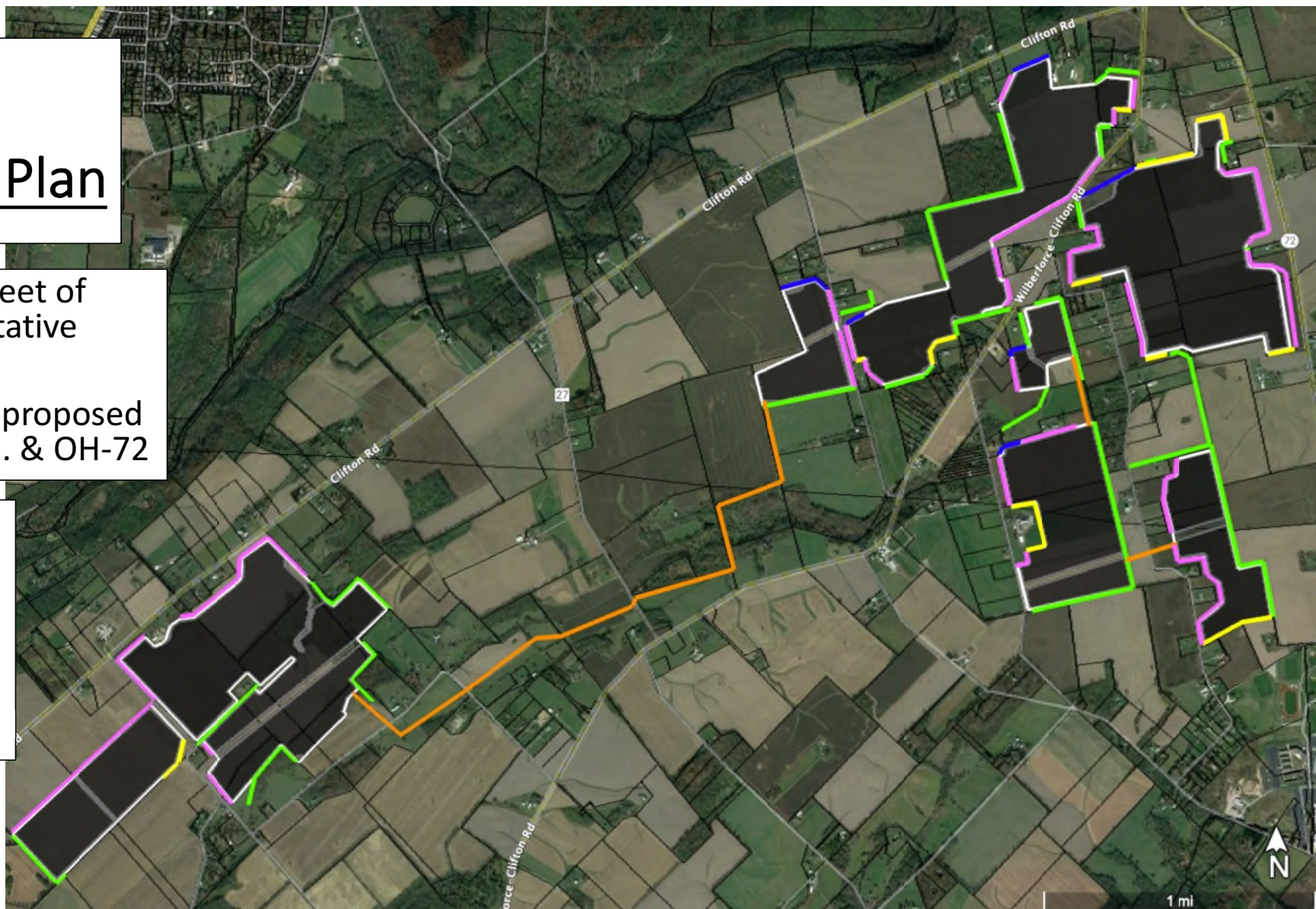
## Landscape Plan

~47,490 linear feet of  
landscape vegetative  
screening

Extra screening proposed  
along Clifton Rd. & OH-72

### LEGEND

- PROJECT BOUNDARY
- LIGHT SCREENING
- MEDIUM SCREENING
- TALL SCREENING
- EXISTING VEGETATIVE BUFFER





# Figure 3

View from OH-72  
driving south toward  
Cedarville



## Figure 4

View from Clifton Rd.  
near Camp Clifton  
driving east



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**Case No(s). 21-0117-EL-BGN**

Summary: Stipulation Supplemental Testimony of Mr. Dylan Stickney electronically  
filed by Mr. Michael J. Settineri on behalf of Kingwood Solar I LLC